

No. 1171-I Lab-71/3777.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Bhupendra Cement Works, Surajpur.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 33 of 1969

between

THE WORKMEN AND THE MANAGEMENT OF M/S BHUPENDRA CEMENT WORKS,
SURAJPUR

Present :—

Shri Malik Ram Khanna and Shri Abhey Singh, for the Bhupendra Cement Workers Union.

Shri B. N. Kak, Personal Officer, for the management.

AWARD

Sarvshri Gurdial and other 12 employees of M/s Bhupendra Cement Works, Surajpur, who were doing loading and unloading work in the factory raised a demand for being made permanent which was not conceded by the management. This gave rise to an industrial dispute.

The Governor of Haryana, in exercise of the powers conferred by clause (d) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal,—*vide* order No. ID/UMB/77-C-69/18601, dated 28th June, 1969.

Whether the following workmen doing loading and unloading work in the factory should be made permanent. If so, with what details?

1. Shri Gurdial.	7. Shri Sawarn.
2. Shri Gurbax Singh.	8. Shri Jamala
3. Shri Chhottoo Ram.	9. Shri Dhani Ram.
4. Shri Jeet Singh.	10. Shri Ram Kishan.
5. Shri Angreja	11. Shri Matoo Ram.
6. Shri Sujjan Singh.	12. Shri Ram Karan.

It is, however, not necessary to go into the merits of the case as an amicable settlement has been arrived at between the management and the workmen concerned as per terms and conditions given in Ex. M-1. Their statements have been recorded.

I have considered the terms and the conditions of the above settlement arrived at between the parties which appear to be fair and reasonable. I accordingly give my award as per terms and conditions contained in Ex. M-1 which are detailed below.

Issues

1. Whether the following workmen doing loading and unloading work in the factory should be made permanent. If so, with what details?
2. Shri Gurdial.
3. Shri Gurbax Singh.
4. Shri Chhottoo Ram.
5. Shri Jeet Singh.
6. Shri Angreja.
7. Shri Sujjan Singh.
8. Shri Matoo Ram.
9. Shri Ram Kishan.
10. Shri Ram Karan.
11. Shri Matoo Ram.
12. Shri Sawarn.

In the circumstances, there shall be no order as to costs.

Dated : 29th January, 1971.

Settlement

1. The Company agrees to make these 12 workers, who are principally employed for repairs of Used Bags, permanent from the date the Award becomes enforceable in terms of this settlement.
- 1.1. It is agreed that if at any time in future the work of repairs of Used Bags is stopped or reduced and as a result thereof these or any of them become surplus to the requirement of the Company, or permanent workers employed in other Departments become surplus to the requirement of the Company the Company will have a right to retrench these workmen, who will be rendered surplus to the requirement of the Company in preference to other permanent workers in the category of Mazdoors.

(Sd.) O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 120, dated the 29th January, 1971.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated : 29th January, 1971.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1174-I-Lab-71/3779.— In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Jaysons Tooth Factory, Gurgaon.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 61 of 1969

between

Shri Jai Singh, workman and the management of M/s Jaysons Tooth Factory, Gurgaon.

Present—

Shri C.B. Kaushik, for the workman.

Shri Sudershan Parkash Gupta, for the management.

AWARD

Shri Jai Singh was in the employment of M/s Jaysons Tooth Factory, Gurgaon since 1963. His services were terminated by the management in June 1969, allegedly without any notice or charge sheet. This gave rise to an industrial dispute. He gave demand notice dated 25th June, 1969, Exhibit W.W. 3/1, whereupon conciliation proceedings were initiated by the Labour-cum-Conciliation Officer, Gurgaon but without any result. The workman concerned felt dissatisfied with the proceedings taken before the Labour-cum-Conciliation Officer and he made certain representations to the higher authorities. The Governor of Haryana was pleased to refer this dispute for adjudication to this Tribunal in exercise of the powers under section 10(1)(d) of the Industrial Disputes Act, 1947,—*vide* order No. ID/GG/76-A/28177, dated 14th October, 1969, the question for determination being as given under :

Whether the termination of services of Shri Jai Singh was justified and in order. If not, to what relief is he entitled ?

On receipt of the above reference usual notices were given to the parties. The workman filed his claim statement on 31st October, 1969 reiterating his above claim and asking for his reinstatement and full back wages. It was contended that he had proceeded on leave from 13th June, 1969 to 16th June, 1969 which had been duly sanctioned by the management but when he returned from leave on 17th June, 1969 he was not allowed to join his duties and the matter was put off for a couple of days, with one excuse or the other, and finally on 20th June, 1969 he was told that his services were not required by the management. He, therefore, filed a complaint to the Labour Officer. It was, further alleged that the management was displeased with him because he had been insisting on the payment of minimum wages with the arrears as fixed by the Government and that his services were terminated without any charge sheet or domestic enquiry into any allegations of mis-conduct against him.

The management filed its written statement on 1st November, 1969 contradicting the above allegations of the workman. It was urged that the workman had absented himself from duty from 13th June, 1969 and had failed to report even on 20th June, 1969 when called through the Chowkidar. The management, however, still waited for him to resume his duty and when he failed to do so he was served with charge sheet on 22nd June, 1969 for willful absence from duty but he refused to receive the charge sheet also. It was further stated that even during the conciliation proceedings before the Conciliation Officer at Gurgaon, the management had never refused to take him back in service but the workman himself had, in fact, no intention to resume his duty.

The above plea of willful absence from duty raised on behalf of the management was totally denied by the workman in his rejoinder filed in the case on 2nd November, 1969. On the above pleadings of the parties the following issues were framed by my learned predecessor on 7th November, 1969.

1. Whether the workman absented himself from work with effect from 13th June, 1969 and he failed to join duty inspite of his being asked to do so ?

2. Whether the termination of services of Shri Jai Singh was justified and in order ? If not, to what relief is he entitled ?

The management has examined four witnesses including Sarvshri K.K. Mathur, Manager M.W. 1, Ram Mehar, Chowkidar M.W. 2, Jai Ram Singh another worker in the same factory, M.W. 3, Dharmindar Nath, Labour Officer-cum-Conciliation Officer, Gurgaon, M.W.4.

The documentary evidence produced on behalf of the management consists of a Charge sheet dated 3rd June, 1969, Exhibit H. 1, application dated 13th July, 1969 addressed to the Labour Officer-cum-Conciliation Officer, Gurgaon, Exhibit M.2. A.D. receipts Exhibit M.3, postal receipts Exhibit M. 2/A and M.2/B, another application addressed to the Labour-cum-Conciliation Officer dated 16th July, 1969 Exhibit M.W. 4/1, the letter dated 22nd July, 1969 issued by the Conciliation Officer, Gurgaon to Shri C.B. Kaushik, representative of the workman Exhibit M.W. 4/2, reply dated 7th August, 1969 written by Shri Kaushik Exhibit M.W. 4/3, notice issued by the management to Shri Jai Singh concerned workman Exhibit M.4.

Shri Jai Singh workman concerned coming into the witness box as W.W. 1 has made a detailed statement emphatically denying the allegations made on behalf of the management regarding his wilful absence from duty. He has examined Shri Jagdish Chander W.W. 2. He has further placed reliance upon some documents ; his complaint dated 20th June, 1969 to the Labour Officer, Gurgaon, Exhibit W.W. 1/1, application dated 31st July, 1969 addressed to the Labour Commissioner, Haryana at Chandigarh Exhibit W.W. 1/2, application dated 19th June, 1969 addressed to the Labour Officer, Gurgaon Exhibit W.W. 1/3, his leave book Exhibit W.1, pamphlet Exhibit W.4, reply received from the Labour Commissioner, Chandigarh, Exhibit W-5,

Shri G.B. Kaushik, General Secretary, Engineering Mazdoor Union, Railway Road, Gurgaon, who represents the workman has also come into the witness box as W.W.3.

I have heard the learned representatives of the parties at sufficient length and given a very careful consideration to the material on record. As already stated, Shri Jai Singh workman concerned had been in the service of M/s Jaysons Tooth Factory, Gurgaon, since August, 1963, as a semi-skilled tooth grinder. His services were terminated by the management in June, 1969. His contention is that he had obtained leave from the management from 13th June, 1969 to 16th June, 1969 and when he had reported for duty on 17th June, 1969 after the expiry of his leave he was refused employment by the management and was finally removed from service on 20th June, 1969. On the other hand, the contention raised on behalf of the management is that he had intentionally absented himself from duty and had failed to respond to even registered notice requiring him to resume his duty and his above act being tantamount to gross misconduct, the management was justified in terminating his services.

o, the main question for termination in the case is as to which of the above contentions is true, whether the workman concerned had wilfully absented himself from duty or the management had turned him out without any justification. A careful scrutiny of the entire evidence, oral as well as documentary, produced in the case on both sides which has been referred to above gives me the impression that the workman had in fact no intention to give up his job with the present management. He had proceeded on leave from 13th June, 1969 to 16th June, 1969 and after the expiry of this leave he had been reporting for duty continuously for 3 or 4 days, but the management did not allow him to resume his duty. He, therefore, made a complaint to the Labour-cum-Conciliation Officer in this behalf on 20th June, 1969 which is Exhibit W.W. 1/1 and then served a demand notice dated 25th June, 1969 Exhibit W.W. 3/1. That was not in all. He even approached the higher authorities when he found that the Labour Officer was not taking due interest in the conciliation proceedings. The case had been seriously contested by him. All this speaks for his keen anxiety to resume his duty with the present management where he had already put in 7 years service and naturally gained considerable experience of the job for which he had been engaged. It does not stand to reason that he would have taken all this botheration upon himself if he had really no intention of continuing his services with the present management. There was apparently no bar to his resigning this job and seeking service somewhere else. The truth of the matter appears to be that the management wanted to get rid of him for one excuse or the other. He is said to have been given the charge sheet Exhibit M-1 on 23rd June, 1969 but no proper domestic enquiry is shown to have been held into the allegation of wilful absence from duty against him. It has been urged on behalf of the workman that previously also his services had been terminated by the management but later on he had been reinstated. In the circumstances, the contention raised on behalf of the management that he had wilfully absented himself from duty can not be believed and I repel the same.

An other plea has been raised on behalf of the management that this workman had received his wages upto 13th June, 1969 and bonus for the year 1969 in full and final settlement of his claim. It has further been urged that he had accepted another job in D.T.U. at Delhi. These contention even do not in any way advance the case of the management, against the workman to justify his removal from service. There is no evidence, documentary or oral to show that the workman had ever agreed to settle his claim finally with the management. The mere fact that he had received his wages upto 13th June, 1969 and also the amount of bonus due for the year 1969 was no proof of the fact that he had finally given up his job with the management or that he had received these payments in full and final settlement of his claim.

As far the other contention that he had accepted a job with the D.T.U. the workman has made no attempt to conceal the true facts and in his statement recorded by my learned predecessor on 12th June, 1970, he has frankly

admitted that he had been undergoing training as a conductor with D.T.U. at Delhi since April, 1970. The mere fact that he had joined the training course as conductor with the D.T.U. at Delhi in April, 1970, almost a year after he had been removed from service, could not debar him from seeking reinstatement with the present management. The management has not cared to produce any evidence to show that he is a regular employee of the D.T.U. and what are his present emoluments.

For the reasons aforesaid both the issues are decided in favour of the workman and against the management. The demands raised by Shri Jai Singh workman being thus well founded, he is entitled to be reinstated with continuity of his previous service and full back wages from the date of the termination of his services i.e. 20th June, 1969 to March, 1970 and thereafter to half the wages only since according to his own showing he has been getting some daily allowance from the D.T.U. I give my award accordingly without, however, making any order as to costs.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 29th January, 1971

No. 121 dated the 29th January, 1971

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 29th January, 1971

No. 1165-1Lab-70/3787.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Solvex Oil and Fertilizer Mills, G. T. Road, Karnal :—

**BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK**

Reference No. 49 of 1970

between

**SHRI BUDHA RAM, WORKMAN THROUGH GENERAL SECRETARY, KARNAL MECHANICAL
AND GENERAL LABOUR UNION, H. No. F. 323, MOHALLA JATAN, KARNAL**

Present :

Shri Budha Ram, workman with Shri Mukand Lal, General Secretary.

Nomo, for the management.

AWARD

Shri Budha Ram was in the service of M/s Solvex Oil and Fertilizer Mills G. T. Road, Karnal. His services were terminated and this gave rise to an industrial dispute. Accordingly the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Court,—*vide* Gazette Notification No. ID/KL/73-B-70/23240, dated 3rd August, 1970 :—

“Whether the termination of services of Shri Budha Ram is justified and in order. If not; to what relief is he entitled ?”

On receipt of the reference usual notices were issued to the parties for 28th September, 1970 in response to which Shri Mukand Lal appeared on behalf of the workman and Shri Krishan Kumar appeared on behalf of the management. My learned predecessor Shri O. P. Sharma directed that the workman shall file the statement of claim by 10th October, 1970 with an advance copy to the management and that the management should file their written statement by 25th October, 1970 with an advance copy to the workman. This order was not complied with by the management. By reason of the transfer of Shri Sharma the case was put up before me on 28th December, 1970. Shri Ved Parkash was present on behalf of the management and even on 28th December, 1970 the written statement was not filed. The representative of the workman stated that an advance copy of the claim statement had been sent to the management by

registered post as directed. He was, therefore, ordered to file the postal receipt to show that the copy of the claim statement had actually been sent and the case was adjourned to 29th December, 1970. On 29th December, 1970, nobody appeared on behalf of the management and the representative of the workman filed the original letter which had been received from the management by which they returned the claim statement sent to them on the plea that the proprietor of the respondent concern was out of station and the claim statement should be submitted as soon as the proprietor returned. This attitude of the management shows that they are taking the proceedings of this Court very lightly and they are not interested in defending their case. A detailed order was passed on 29th December, 1970 by which *ex parte* proceedings were ordered to be taken against the management on account of the absence of their representative. A copy of the order is annexure 'A' to this award.

The workman has produced his *ex parte* evidence in compliance with the order of this Court. Shri Budha Ram workman has stated on oath that he has been in the service of the respondent company from the last 3 years and he was being paid Rs. 4.25 per day. He has stated that his services have been terminated because Shri Ramesh Babu ordered him to go to his house and bring his meals and since it was very cold the applicant expressed his inability to go, upon which Shri Ramesh Babu got annoyed and terminated his services without giving him any opportunity to show cause. The workman has further stated that he has not been employed elsewhere since the termination of his services. Since there is no evidence in rebuttal, there is no reason to disbelieve the sworn testimony of the workman. I accordingly hold that it is satisfactorily established that the termination of the services of the workman Shri Budha Ram is not justified and in order and he is entitled to be reinstated with continuity of service and full back wages. I give my award accordingly. No order as to costs.

Dated 22nd January, 1971.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 210, dated Rohtak, the 27th January, 1971

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

ANNEXURE 'A'

ORDER

On 28th September, 1970 my learned predecessor Shri O. P. Sharma directed the workman to file his claim statement with an advance copy to the management by 10th October, 1970 and the case was adjourned to 3rd November, 1970. The management were directed to file their written statement with an advance copy to the workman by 25th October, 1970. The issues in this case were to be framed on 3rd November, 1970. On account of the transfer of my learned predecessor the parties were directed to appear before me on 28th December, 1970. Shri Mukand Lal was present on behalf of the workman and Shri Ved Parkash appeared on behalf of the management but he did not produce any letter of authority. He filed a letter in which prayer was made that the partner of the respondent concern Shri Krishan Kumar who is dealing with this case has gone to Delhi in connection with some personal affairs and is expected to remain there on 29th December, 1970 and 30th December, 1970 and he is not feeling well. On behalf of the workman it was submitted that under the order of my learned predecessor the management should have filed the written statement at the latest by 3rd November, 1970 but it has not been done. He also submitted that a copy of the claim statement was sent to the management under registered cover as directed by my learned predecessor. It was not received by the management. The learned representative did not have with him the necessary papers and the case was, therefore, adjourned for today to enable him to file the registered letter sent to the management. The representative of the workman has produced a letter dated 19th October, 1970 which had been received from the management and by which they returned the copy of the claim statement received by them on 17th October, 1970 on the pretext that the proprietor of the respondent concern was out and it should be sent again after he returned. Before me also the written statement was not filed, on the date fixed for the purpose on the ground that the partner of the respondent concern who is dealing with the case is out of station. Today nobody has appeared on behalf of the management. Under the circumstances, there is no alternative but to proceed *ex parte* and the case is adjourned to 7th January, 1971 for recording *ex parte* evidence at Rohtak.

(Sd.)
Presiding Officer,
Labour Court, Rohtak.

B. L. AHUJA,
Commissioner for Labour and Employment and Secy.